

SUMMARY OF AMENDMENTS TO THE LOCAL RULES OF CIVIL PROCEDURE

The Judges of the United States District Court for the Western District of New York have approved modifications to several of the Court's Local Rules of Civil Procedure. Many of the amendments are ministerial. The following list is a brief, but not exhaustive, description of some of the more substantive amendments.

Rule 5.1: Filing Cases This rule is modified substantially. Subdivision (d) requires that parties commencing civil actions must submit a completed civil cover sheet. Subdivision (e) requires non-governmental corporate parties to file a statement identifying any parent companies. Subdivision (f) imposes a duty on counsel to notify the Court in writing if facts exist such that a new case and an existing case or cases should be heard by the same Judge. Subdivision (g) requires a party filing papers including a claim under Title 11 of the United States Code to notify the Clerk in writing of the existence of such a claim. Subdivision (h) incorporates the provisions of the Court's Standing Order governing civil actions asserting claims under the Racketeer Influenced & Corrupt Organizations Act ("RICO").

Rule 5.2: Pro Se Actions The modifications to this rule outline the Court's current procedures that apply to *pro se* cases.

Rule 5.4: Sealing of Complaints and Documents in Civil Cases This rule is largely modified, providing specific procedures for parties wishing to file documents and/or cases under seal.

Rule 7.1: Service and Filing of Papers Subdivision (d) is substantially amended to set forth the requirements for parties seeking expedited hearings. Note that this provision is parallel to the provisions of Local Rule of Civil Procedure 65. Subdivision (i) requires individuals requesting date-stamped copies of filed documents to submit an addressed envelope of sufficient size with postage affixed. Subdivision (k) is amended to provide for the parties to file a written consent to accept service by electronic means.

Rule 10: Form of Papers Formerly Rule 5.2, this rule was renumbered to conform to the uniform numbering system adopted by the Judicial Conference of the United States and required by Federal Rule of Civil Procedure 83(a)(1). Subdivision (a) requires the text and footnotes of all documents to be presented in at least 12-point type and double-spaced. The requirement that documents be presented in covers with 2 holes punched at the top has been deleted. Subdivision (b) requires parties submitting initial pleadings to number and identify all parties with accurate capitalization and spacing.

Rule 16.1: Pre-Trial Procedures in Civil Cases This rule has been substantially modified throughout its provisions to more accurately reflect current practices with respect to pre-trial procedures.

Rule 16.2: Arbitration Subdivision (j)(3) is amended to provide that parties to an arbitration must equally share the arbitrator's fees. Note: the Court is considering substantial modifications to its ADR program. A study group is expected to report to the Court in 2003.

Rule 26: General Rules Governing Discovery This rule has been revised in its entirety and, consistent with the Federal Rules of Civil Procedure, sets forth the Court's current requirements regarding discovery in civil cases.

Rule 30: Depositions Subdivisions (a) and (b) are new to the rule and set forth requirements for serving deposition notices and for producing documents requested in connection with depositions.

Rule 34: Limitation on Requests to Produce Documents or Things This is a new rule which limits to 25 the number of requests to produce documents or things.

Rule 38: Requests for Jury Trials in Cases Removed from State Court This rule is amended to provide consistency with the Federal Rules of Civil Procedure related to filing jury demands.

Rule 54: Costs This rule adds subdivision (c) which sets forth that prior approval is needed for a party to claim costs for a videotaped deposition. Formerly, this provision appeared only in Local Rule of Civil Procedure 30. It now appears in both Rules 30 and 54.

Rule 56.1: Statements of Facts on Motion for Summary Judgment This rule was substantially amended and establishes particular requirements for the contents of and time for filing papers in connection with a summary judgment motion.

Rule 56.2: Notice to *Pro Se* Litigants Opposing Summary Judgment This is a new rule which imposes a duty on a party filing a summary judgment motion to notify any *pro se* litigants of the consequences that can result for failing to respond to the motion.

Former Rule 65.1: Cost Bonds This rule has been deleted from the Local Rules of Civil Procedure.

Rule 65: Temporary Restraining Orders and Preliminary Injunctions This is a new rule establishing detailed procedures for litigants seeking injunctive relief.

Rule 67: Deposits of Money Into Court This rule is modified to better reflect the Court's current policies regarding deposits of money into Court.

Rule 72.2: Assignment of Matters to Magistrate Judges Subdivision (b)(2)(B) is added to clarify the procedures for obtaining *pro se* parties' consent to proceed before a Magistrate Judge. Consistent with current law, additional changes were made to provide only for direct appeal to the Second Circuit Court of Appeals.

Rule 72.3: Review and Appeal of Magistrate Judges' Actions The provisions regarding appeal are modified to reflect current law dictating that appeals from Magistrate Judges' decisions are taken directly to the Circuit Court of Appeals.

Rule 77.4: Copies of Orders This is a new rule establishing that the Clerk will mail one copy of every order entered to each law firm representing a party or non-party movant to an action.

Rule 78: Motions This rule is modified to delete reference to naturalizations.

Rule 79: Exhibits This rule is modified to provide that, once a verdict is rendered, responsibility for custody of trial exhibits is upon the parties who must safeguard them and produce them as required in the event of an appeal.

Rule 81: Removed Actions This is a new rule which sets forth requirements to be followed in cases removed from State courts.

Rule 83.1: Attorney Admission to Practice Subdivisions (a) and (b) are amended to update certain statutory references and to add the requirement that applicants for admission complete the oath appended to the Court's Civility Principles. Subdivision (e) states that certificates of good standing from other districts must be dated no more than six months prior to the date they are submitted to this Court. Subdivision (h) requires attorneys to notify the Clerk of changes in office address as well as the names of those cases on which he or she will remain counsel of record. Subdivision (i) is amended to require that applicants for admission *pro hac vice* satisfy all subparts of subdivision (b). Further, attorneys admitted *pro hac vice* are subject to the local counsel requirements of Local Rule of Civil Procedure 83.2. Subdivision (n) is added to include reference to the Court's Civility Principles.

Rule 83.2: Attorneys of Record - Appearance and Withdrawal Modifications to subdivision (a) are intended to clarify the requirement for local counsel. Subdivision (b) adds the requirement for attorneys to file notices of appearance.

Rule 83.3: Discipline of Attorneys With the exception of subdivision (a), all subdivisions of this rule are largely amended and set forth newly adopted practices for attorney discipline.

Rule 83.7: Student Law Clerks Modifications were made to this rule so that its provisions more accurately reflect the Court's practices with respect to student law clerks.